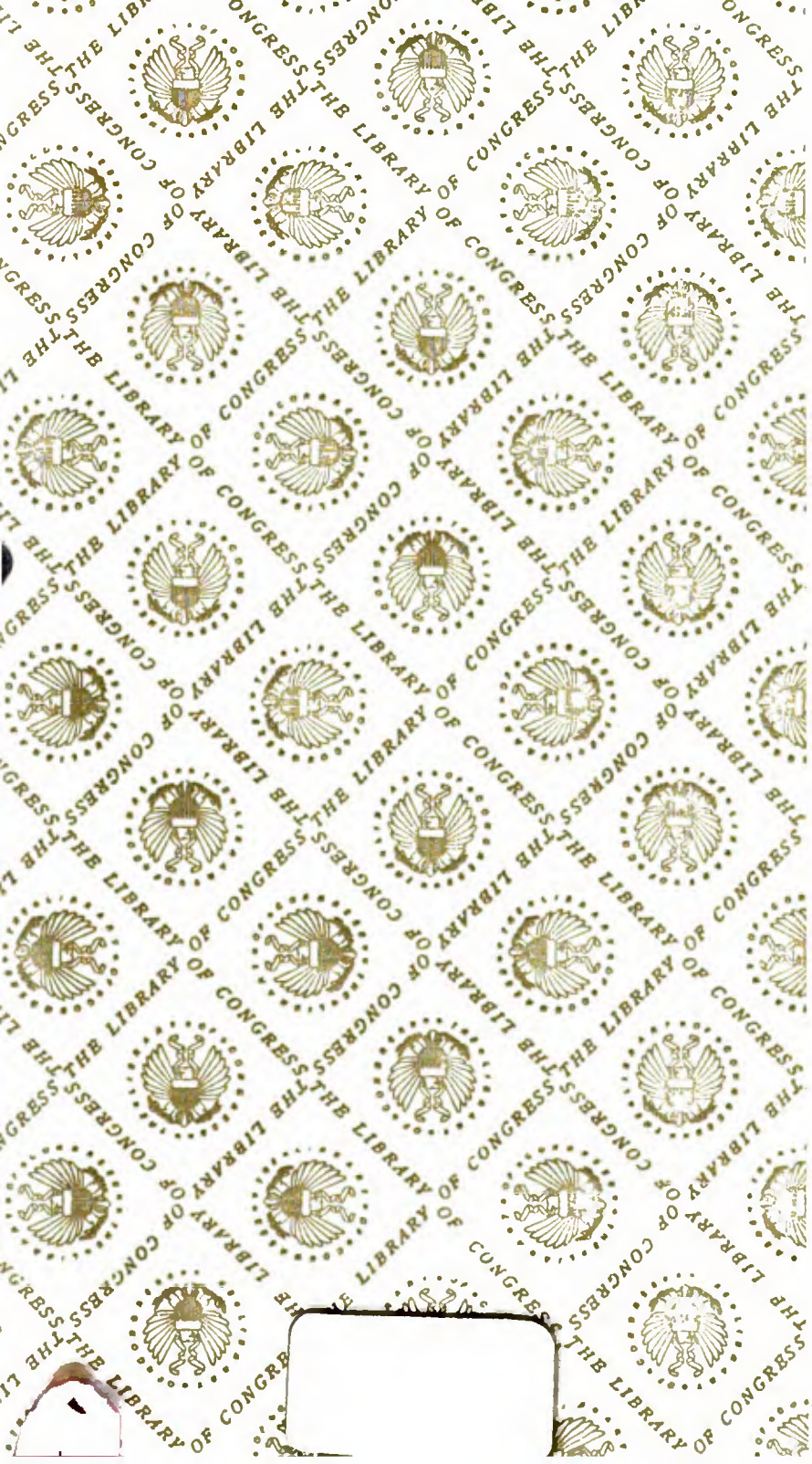
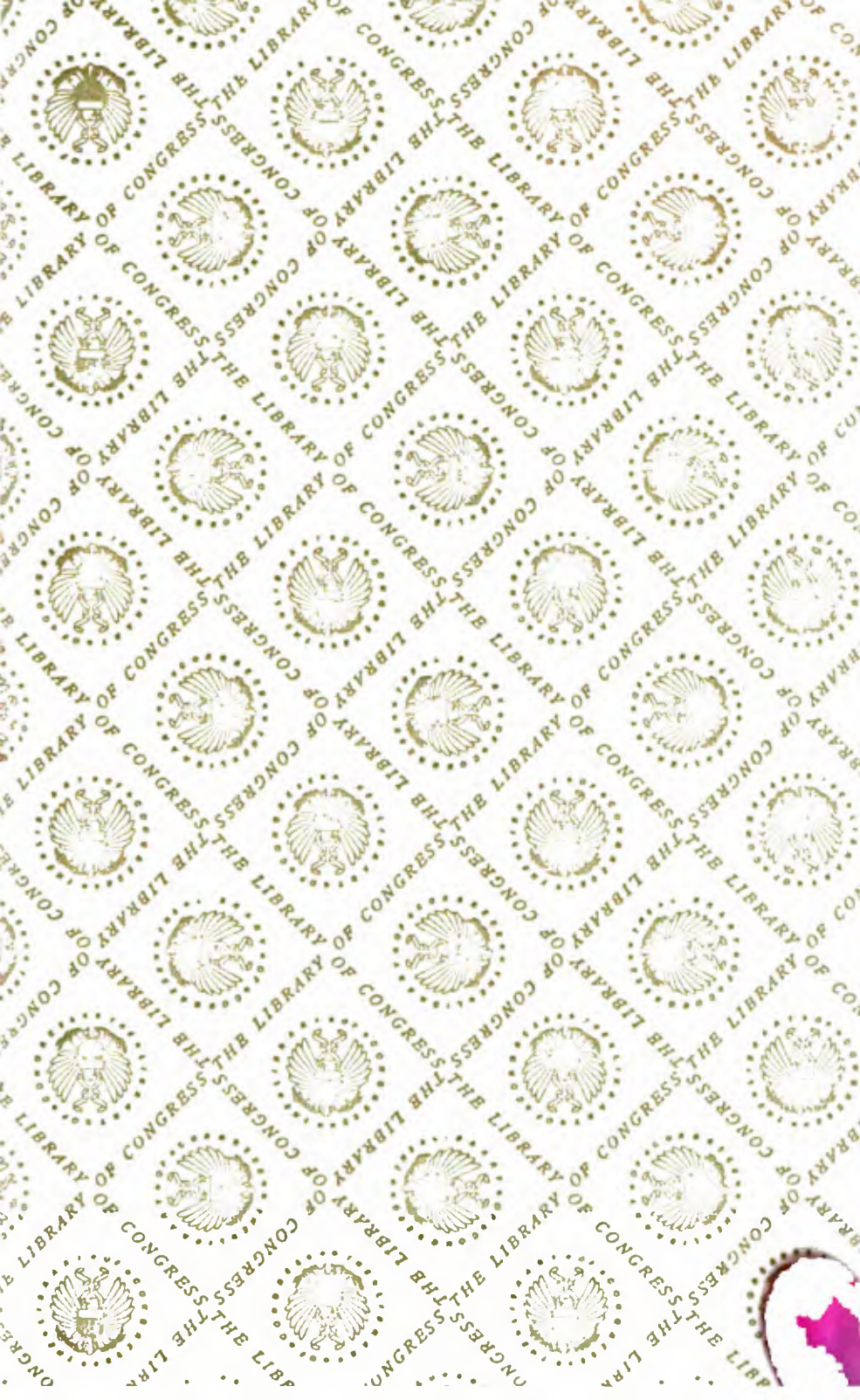


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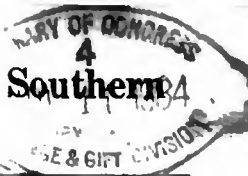
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**Additional District Judge for the Southern
District of Illinois**



*United States. Congress. House. Committee
on the Judiciary.*

HEARINGS

BEFORE THE

**COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES**

SEVENTY-FIRST CONGRESS

SECOND SESSION

ON

H. R. 11967

Serial 13

JUNE 17, 1930



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ADDITIONAL DISTRICT JUDGE FOR THE SOUTHERN
DISTRICT OF ILLINOIS

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 2 OF THE COMMITTEE ON THE JUDICIARY,
Tuesday, June 17, 1930.

The subcommittee this day met, Hon. Charles A. Christopherson presiding.

Mr. CHRISTOPHERSON. The subcommittee will come to order. We will take up H. R. 11967, introduced by Congressman Ramey, for an additional judge for the southern district of Illinois. Mr. Ramey will give his views.

(The bill referred to is as follows:)

[H. R. 11967, Seventy-first Congress, second session]

A BILL To provide for the appointment of an additional district judge for the southern district of Illinois

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and directed to appoint, by and with the advice and consent of the Senate, an additional judge of the District Court of the United States for the Southern District of Illinois.

STATEMENT OF HON. FRANK M. RAMEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RAMEY. As stated by the chairman this bill is for an additional Federal judge from what is known as the southern judicial district of Illinois. This particular district comprises about 40 counties, and although it is called the southern district it is along most of the western side of the State. In other words, it extends from north of Peoria to Madison County included in the south. This particular district includes several congressional districts, one represented by Mr. Adkins, another by Congressman Allen, the district of Congressman William E. Hull, of Peoria, and there are several large and important cities in this district. I might name besides Peoria, Bloomington, and the capital, Springfield.

Mr. CHRISTOPHERSON. Give the population as near as may be as you go along.

Mr. RAMEY. What has Peoria?

Mr. HULL. One hundred and five thousand.

Mr. RAMEY. And Decatur?

Mr. ADKINS. Fifty-eight thousand.

Mr. MONTAGUE. What is the population of the district?

Mr. RAMEY. The chairman asked me for the towns.

Mr. SWANSON. Bloomington has 37,000.

Mr. ALLEN. Rock Island would be the largest city, with 90,000.

Mr. RAMEY. The last census showed the population of Springfield to be 71,000.

Mr. ADKINS. What is Quincy?

Mr. RAMEY. Quincy is in the district. It has a total population of 1,410,542, as in the report of Mr. Bachmann.

Mr. CHRISTOPHERSON. How many places do they hold court in that district?

Mr. RAMEY. They hold court at Springfield and at Quincy and Peoria.

Mr. MONTAGUE. How many judges have you there now?

Mr. RAMEY. One judge.

Mr. CHRISTOPHERSON. What is the state of the docket there?

Mr. RAMEY. I am quoting from the table compiled by a member of your committee, Mr. Bachmann, which I have found to be accurate.

Mr. CHRISTOPHERSON. I think that is reliable.

Mr. RAMEY. There is a total at the present time of 847 cases pending on the docket.

Mr. CHRISTOPHERSON. Criminal, civil, or both?

Mr. RAMEY. That is divided. I will get that for you.

Mr. CHRISTOPHERSON. What are termed civil and private cases amount to 455, and the criminal cases are 392.

Mr. SWANSON. What about bankruptcy?

Mr. RAMEY. I do not have those.

Mr. SWANSON. There are a great many more of them, I expect.

Mr. RAMEY. That is not in this list. In Illinois there is quite a bit of litigation because a private suit brought against a railroad, if it is \$3,000 or over, if the damage suit is brought for \$3,000 or over, if it is over that amount, over \$3,000, the defendant may move the court to transfer the case to the Federal court. At this time a large number of railroad cases, damages, are now pending in the Federal court of our district.

Mr. CHRISTOPHERSON. Is it not the general practice that if a railroad is sued for more than \$3,000, they move to put it in the Federal court?

Mr. RAMEY. Yes; but for no other reason except the delay that is caused.

Mr. CHRISTOPHERSON. What length of time elapses, as a general rule, between the time a civil case is filed in your judicial district from and until it may be brought to trial—a jury case?

Mr. RAMEY. I had a case I was in myself. We sued the Wabash Railroad. The motion was made at the second term of our local court to transfer it to the Federal court, and there we worked on the pleadings in that court for two years, and although the party was killed—there were four killed in that wreck—I think it was three and a half years after the death before we got to the jury trial.

Mr. CHRISTOPHERSON. You said you worked on the pleadings for about a year and a half. Do I understand that the issue was not joined until after that?

Mr. RAMEY. The practice is that the plaintiff can amend at any time during the term. They start in on a case, and possibly it will be set for hearing at the June term, if that is one of the terms, and the attorney for the defendant railroad can step in there a month before and file a demurrer, and that has to be taken care of. The court meets and that same court handles all classes of cases, civil, criminal, and bankruptcy cases, and it is congested, and there is no chance, Mr. Chairman; I do not see any chance for this condition to be any better.

Mr. CHRISTOPHERSON. Out in Iowa the issue is joined and the case stands ready for trial. How long a time on an average elapses before you can bring the suit to trial?

Mr. RAMEY. That varies.

Mr. CHRISTOPHERSON. What would you say would be the average time if, for example, the plaintiff is all ready at the trial—how long would you have to wait before the natural condition of the calendar would permit the suit to be brought to trial?

Mr. RAMEY. Lots of times it is not the court's fault. The witnesses may be sick. I want to be fair about it, but I do not believe you can get a trial there in less than two years.

Mr. SWANSON. If the attorneys for the plaintiff and the defendant are both ready for trial?

Mr. RAMEY. In some cases and in some not. It has gone that long.

Mr. CHRISTOPHERSON. This delay and wait would be to catch up with the civil calendar on account of the cases ahead as you get down to them on the calendar.

Mr. RAMEY. Yes. Attorneys who have different cases pending would want their cases tried. Here is another thing. There are a number of criminal cases on the docket. Many of them are cases in which there is an indictment and the man is in jail. The court meets and their attorneys will say, "Our men are in jail and they are entitled to trial."

Mr. CHRISTOPHERSON. Naturally, the court will take up those cases first and that is perfectly proper.

Mr. RAMEY. Yes.

Mr. CHRISTOPHERSON. Then you would say that the average length of time that elapses from the time the case is ready for trial until it is tried, these civil cases, would be approximately two years?

Mr. RAMEY. Yes.

Mr. SWANSON. There are now three places, do I understand, where they hold court in the district?

Mr. RAMEY. Quincy, Peoria, Bloomington, and Springfield.

Mr. SWANSON. Do you have two terms of court a year or more?

Mr. RAMEY. The deputy marshal about two years ago told me he was connected with the court there for seven or eight years and never did know of court being held at Quincy but two or three times.

Mr. SWANSON. Where is court held?

Mr. RAMEY. They hold court at Peoria.

Mr. RAMEY. How much court do they hold in Peoria?

Mr. HULL. I think they hold four terms; it is either four or five terms. Our court is congested continually because there is a great deal of court work which comes from "dry" cases, and sometimes we have a week's court on prohibition cases alone. Peoria is large enough to be a court itself.

Mr. CHRISTOPHERSON. Malone and Rock Island are in this district?

Mr. ALLEN. Yes. There is the International Harvester Co. there and the factories along the rivers there in the Tri-Cities; and there is Davenport which is the largest we have in that district.

Mr. HULL. Peoria is as good as the others. Then you have Monmouth, Quincy, and Macomb and a lot of mining people in there. All that Franklin stuff is in that district.

Mr. RAMEY. The Wabash shops are in Decatur. Then there is Galesburg, which is the largest point on the Chicago, Burlington & Quincy.

Mr. ALLEN. Quincy had a court but they now go to Springfield.

Mr. RAMEY. The coal-mining district has a large foreign-born population. Macoupin County has, I think, about 45 coal mines, some of them employing as high as 800 men.

Mr. CHRISTOPHERSON. How many districts are there in Illinois?

Mr. RAMEY. The northern, or Chicago, district, and the eastern or southern.

Mr. CHRISTOPHERSON. Two judges in the eastern district?

Mr. RAMEY. Yes, sir.

Mr. CHRISTOPHERSON. How does that compare in size and population with the other districts?

Mr. RAMEY. The eastern district with two judges has 1,250,580 people, while the southern is 1,410,542 people.

Mr. CHRISTOPHERSON. How many counties in the eastern district?

Mr. RAMEY. I expect they have almost the same number we have. I wish to suggest that in the southern counties of Illinois, when you get below the coal-mining district south of there, there are 8 or 10 counties with small population.

Mr. CHRISTOPHERSON. And they are in the eastern district?

Mr. RAMEY. Yes, sir.

Mr. CHRISTOPHERSON. What towns have they?

Mr. RAMEY. They have East St. Louis and Danville, and the tri-cities around St. Louis, but no other large cities. They are Belleville, Cairo, East St. Louis, and the tricities around St. Louis.

Mr. CHRISTOPHERSON. Have they had two judges there for some 5, 6, or 7 years?

Mr. RAMEY. Yes, sir.

Mr. CHRISTOPHERSON. There has been but one judge in this southern district all the time?

Mr. RAMEY. That is all.

Mr. HULL. There is as much business in the southern district as in the eastern district, one judge where they have two. There is a little more property in one of the districts, but our lawyers in Peoria have been insisting upon this since I have been in Congress.

Mr. CHRISTOPHERSON. They have recognized the need of another judge?

Mr. HULL. Yes, sir.

Mr. RAMEY. The eastern district has two judges and only 370 cases pending, and our district with but one judge has 847 cases pending. With another judge we could reduce that materially in a very short time.

Mr. MONTAGUE. How old is your present judge?

Mr. RAMEY. Judge Fitzhenry of Bloomington is the judge; he was on this committee when he was in Congress.

Mr. MONTAGUE. Whom did he succeed—English?

Mr. RAMEY. No, sir. He succeeded John Stirling and then John succeeded him.

Mr. CHRISTOPHERSON. Are there any further questions?

Mr. MONTAGUE. Have you any opinion from the Attorney General on this?

Mr. CHRISTOPHERSON. Yes, sir. I will submit that to the committee later.

Mr. RAMEY. There are 85 judicial districts in the United States?

Mr. CHRISTOPHERSON. That is right.

Mr. RAMEY. And the southern district of Illinois ranks twenty-sixth in number of cases pending. I do not see any chance they had to get any better. It may get worse.

Mr. MONTAGUE. Is your judge a hard worker?

Mr. RAMEY. Yes, sir; he is a competent and conscientious man, and a hard worker.

Mr. SWANSON. I want to tell you about that before we get through.

Mr. MONTAGUE. Is Judge FitzHenry a Democrat?

Mr. HULL. Yes, sir.

Mr. CHRISTOPHERSON. There is no complaint as to the present court?

Mr. HULL. No. When he was here the last time on this lawyers' convention—he always visits with me when he comes here—I talked this matter over with him, and he has never urged it, as he did not want to even seem to intrude his opinion on the Government for an extra judge, but he said things were now getting to be awful on the job; that he could hardly see his way clear.

He lives at Bloomington and has to go to Springfield for the regular court and to Peoria for the side courts; and if he has one in Bloomington, he has one also in Quincy.

Mr. MONTAGUE. And Springfield is in your district?

Mr. HULL. Yes, sir.

Mr. RAMEY. He can not stand up to what he is doing very long.

Mr. MONTAGUE. How old is he?

Mr. HULL. About 60 years of age, I should say.

Mr. MONTAGUE. Is he in a sound state of health?

Mr. HULL. He is in good physical condition.

Mr. HULL. As long as his health permits, he will not ask for any other judge. But it should not be required of him to be compelled to have to ask for one.

Mr. CHRISTOPHERSON. Is there anything further, Mr. Ramey?

Mr. RAMEY. I believe not, Mr. Chairman.

Mr. CHRISTOPHERSON. Is there anything you care to say Congressman Hall?

STATEMENT OF HON. HOMER W. HALL

Mr. HALL. I know the judge, Mr. Chairman, and we have been raised since boys together, and we have been friendly enemies for from 50 to 60 years. He was in Congress here from 1913 to 1914 and then he was on this committee. Before that time he was a practicing lawyer. He lives in Bloomington and his chambers are there. He does most of his work there except this trial work; and, as these gentlemen have said, he is one of the most diligent, hardworking, conscientious Federal judges I have ever seen or heard of. Now, that statement is taking in a good deal of territory but it is the truth here. He just works all the time.

In addition to the cases pending, as Mr. Ramey has said, I just got word from Mr. Jameson there that at the close of the fiscal year of 1928, there were 1,311 bankruptcy cases; and last year, at the close of the fiscal year, there were 1,156 bankruptcy cases. They take up a good deal of his time; and most of the time he is either on the bench or in his chambers or on the railroad going to court. I do not see why he has not insisted upon a Federal judge for that southern district to help out in the work.

I have not gone over the statistics as even Mr. Bachman has, but I know from my associates and intimate association with this judge, and everybody tells me that the way he works, no human being should be compelled to work that hard. I think he could do better with his court work if he had less to do, not that it is not well done now. He is eminently satisfactory to the bar and to the people and his record in that regard speaks highly for the judge there.

And, as Mr. Hull said, partisan politics do not color the opinion of the people of the southern district. They are all favorable to Judge Fitzhenry because of the hard, conscientious work he does, and because of the equitable way in which he handles his business. If the statistical record show—and it seems to show—that this judge was justifiable for appointment to-morrow, with my personal knowledge of the judge and the way in which he conducts his business, they would lead me to conclude that is something which we should do in making this readjustment; and I am not looking for a judgeship either.

Mr. CHRISTOPHERSON. Have you any questions to ask, Mr. Adkins?

Mr. ADKINS. The chief complaint we hear is from people who have business in the Federal court, running over to Springfield; and the reaction I get is: What is the matter with our courts? Haven't we courts enough to transact the business without compelling us to run over to Springfield, and have the cases to be heard put off?

The litigants have made complaints to me of that nature; but I have never heard any complaint against Judge Fitzhenry; but there is complaint about the indefinite delay in getting cases to trial.

Out there we have some rather large companies—the Wabash Railway Co. terminal shop with 3,000 men, and there is another concern which employs 300, and these coal men in the coal mines there, with 200 or 300 men, and the pewter people and the ironworks; and altogether they have considerable court business.

Mr. CHRISTOPHERSON. Is it fact, in your opinion that there is need for another judge in that district?

Mr. ADKINS. Yes, sir; leaving aside the amount of work the judge has to do, they have delays among the litigants in getting their cases disposed of; and they seem to be of the opinion that it is the increased amount of business which has been brought about by the eighteenth amendment that is responsible for the crowding of the courts.

Mr. HALL. Together with the narcotics?

Mr. ADKINS. Yes.

Mr. RAMEY. There is a Federal prohibition office at Springfield.

Mr. CHRISTOPHERSON. For the first or number one section?

Mr. HULL. For one section. They had one at Peoria for a time but he is at Springfield now.

Mr. MONTAGUE. Do your State courts try prohibition cases?

Mr. RAMEY. Yes, sir. That is more with reference to counties. Of course, some counties are more active than others in trying such cases.

Mr. ADKINS. All of the petty liquor cases are sent to the State farms on conviction; they are in our small courts.

Mr. RAMEY. The first-offense cases are tried in the circuit court under the State; and the second-offense cases, they take them to the Federal courts.

Mr. CHRISTOPHERSON. Is there any other gentleman who wishes to be heard or wishes to ask any questions?

Mr. ALLEN. I would like to refer to the size of the cities—Rock Island and Monmouth.

Mr. MONTAGUE. How large is Monmouth?

Mr. ALLEN. About 10,000.

Mr. MONTAGUE. How large is Quincy?

Mr. ALLEN. About 40,000.

Mr. MONTAGUE. And Malone and Rock Island?

Mr. ALLEN. About 25,000 each.

Mr. MONTAGUE. Are those cities close together?

Mr. ALLEN. Yes, sir. Then the main line of the Burlington road runs through this section which we are talking about; and the main line of the Rock Island is in this district.

Mr. HULL. All of these cities which he has named are west of the Illinois River, and there the court is held at Peoria; the others are held at Quincy and Rock Island.

Mr. MONTAGUE. How far is Rock Island from Peoria?

Mr. HULL. About 7 miles.

Mr. CHRISTOPHERSON. Congressman Buckbee, do you want to be heard?

Mr. BUCKBEE. I am here, at the invitation of Congressman Ramey. I am in that District of Illinois, and I have a friendly interest throughout the State.

Mr. MONTAGUE. What is your district?

Mr. BUCKBEE. Twelfth Illinois.

Mr. MONTAGUE. Not the congressional district but the judicial district.

Mr. BUCKBEE. The northern district.

Mr. MONTAGUE. That takes in Chicago?

Mr. BUCKBEE. Yes, sir.

Mr. MONTAGUE. And they want two judges there?

Mr. BUCKBEE. Yes, sir.

Mr. CHRISTOPHERSON. The fact is we reported that particular bill out the other day.

Mr. SWANSON. Has anyone a record of the cases in the district which have been disposed of during the year on that basis?

Mr. RAMEY. I have for the three years, but not for one year.

Mr. CHRISTOPHERSON. I think he did the tabulation over a period of three years.

Mr. MONTAGUE. You do not have any admiralty or maritime cases, do you?

Mr. HALL. "Admiralty" covers a multitude of cases. If you label an assignment of chocolate "absolutely pure," and it is not absolutely pure, that is an admiralty case. But I take it you refer to maritime cases.

Mr. MONTAGUE. Yes, sir.

Mr. HALL. We have not any of those.

Mr. RAMEY. Answering the question asked a moment ago, I would say, at page 7779 of the Record here, the total number of cases terminated, by districts, beginning with the ending of the fiscal year of 1926 and ending with the fiscal year of 1929, for the southern district of Illinois, the judge disposed of 2,885 cases.

Mr. MONTAGUE. In the three years?

Mr. RAMEY. Yes, sir. That is all of the cases, on plea of guilty, and so forth.

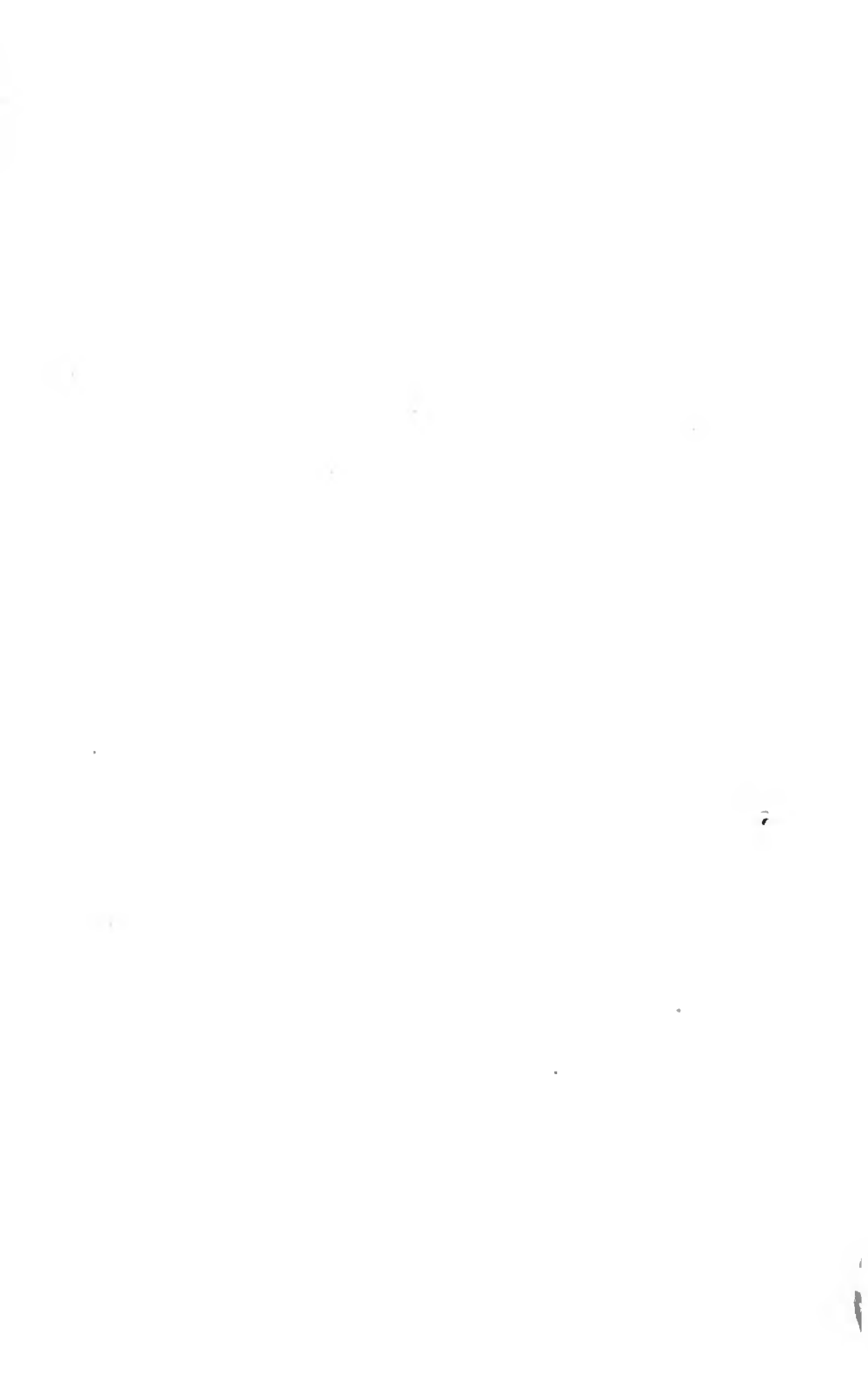
Mr. CHRISTOPHERSON. Nearly 1,000 cases a year?

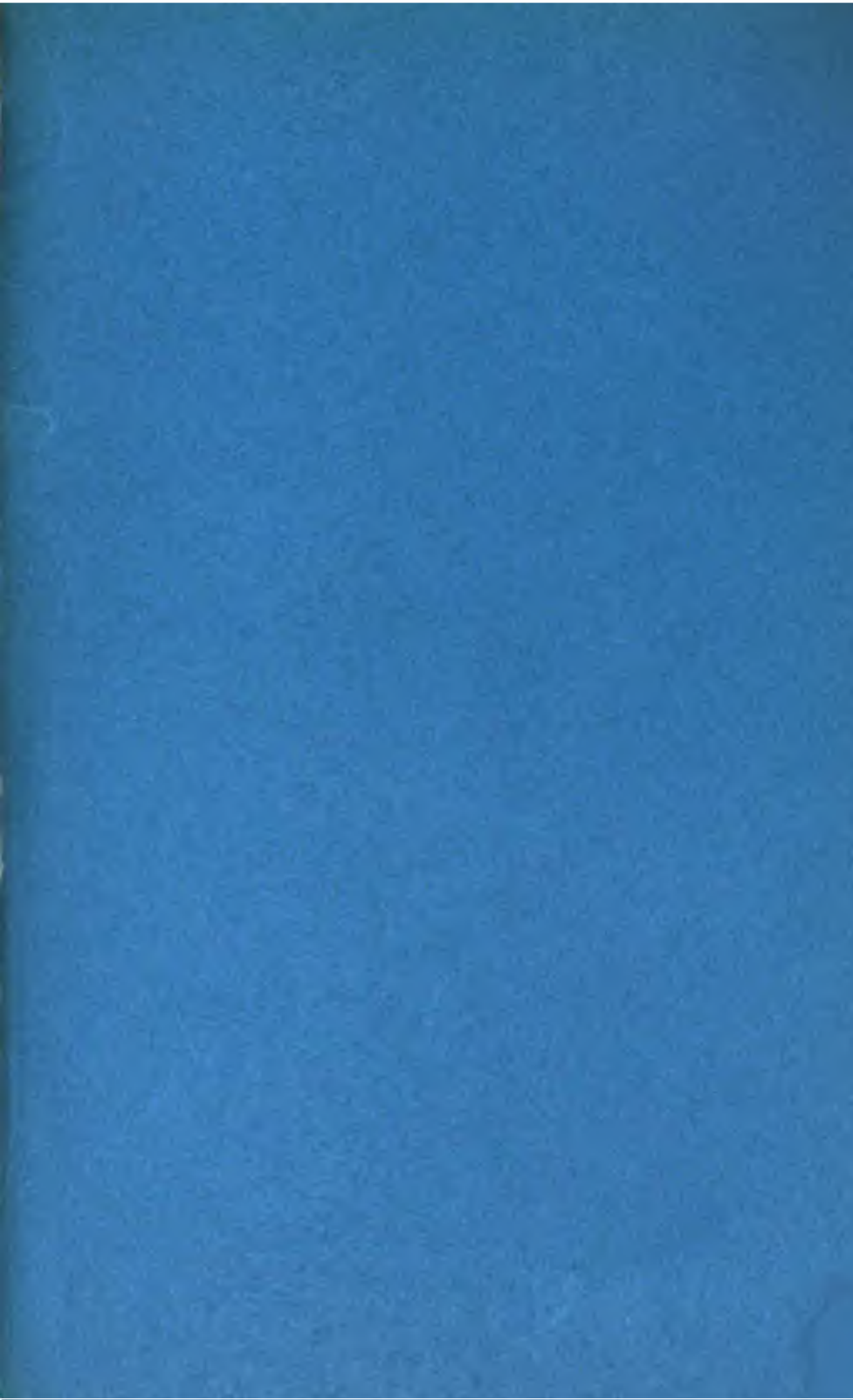
Mr. RAMEY. Yes, Mr. Chairman.

Mr. HULL. Does that include bankruptcy cases?

Mr. RAMEY. No, I do not think it does.

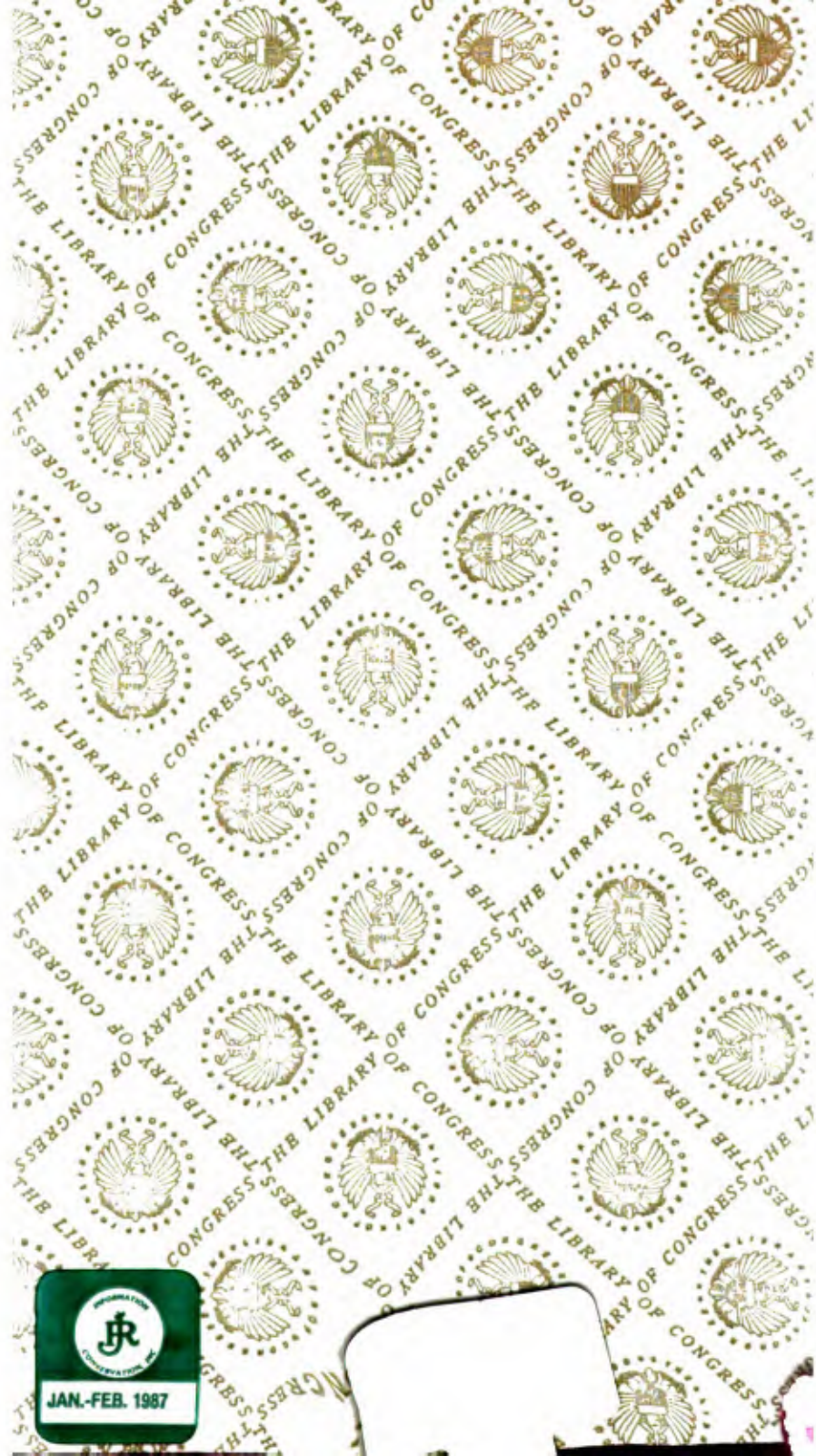
Mr. CHRISTOPHERSON. If there is nothing further, the committee will give this early consideration. The committee stands adjourned. (Committee adjourns.)











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